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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----:
AIDA MARKISIC, :

Plaintiff :

v. :

THE YANKEE SYSTEMS, INC., JOSEPH
FISCHBEIN, PARTRIDGE & PARTRIDGE
REALTY CORP., CHRIS PARTRIDGE,
WESTERMAN, BALL EDERER, MILLER &
SHARFSTEIN, LLP, PHILIP J. CAMPISI, JR.,
ACME REALTY INC., ANTONIO HECTOR
AUGUSTI and HEWES STATION, LLC,

Defendants. :

Case No. 08-cv-05478 (SCR)

**NOTICE OF MOTION
TO DISMISS**

-----:
PLEASE TAKE NOTICE THAT upon the annexed Affirmation of Paul A. Winick, Esq.,
the Memorandum of Law submitted herewith and upon the prior pleadings and
proceedings in this action, defendants The Yankee Systems, Inc. and Joseph Fishbein
(collectively, the “Moving Defendants”), by their attorneys, Lynn & Cahill LLP, at a time
and place to be determined by the Court, will move this Court, upon the grounds that (a)
the Amended Complaint (a) fails to state a claim upon which relief can be granted; (b)
that Plaintiff lacks the capacity to bring the claims alleged in the Amended Complaint;
and (c) that the Court lacks subject matter jurisdiction. For an order, pursuant to Federal
Rules of Civil Procedure 12(b) (1) and (6) and 9(a), dismissing the Plaintiff’s Amended
Complaint in its entirety as against the Moving Defendants, with prejudice, and for such

other and further relief as the Court deems just and proper,

Dated: New York, New York
August 15, 2008

Yours, etc.

LYNN & CAHILL LLP

By s/ Paul A. Winick
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